

## **Collection of Fines**

### **Bill Proposal:**

Create an expedited procedure of obtaining a judgment to collect unpaid monetary penalties imposed by the Commission.

### **Problem:**

The current procedure available to the Commission for collecting unpaid monetary penalties requires the Commission to file a civil action to obtain the necessary judgment, even though the particular case has already been decided conclusively on the merits through the administrative process. The procedure provides for a full civil action and is unnecessarily involved and time consuming. For instance, in the Gamel case (0830003), Enforcement Counsel was forced to file a motion for summary judgment simply because the Respondent answered the complaint. The defendant thereafter appealed from the judgment against him.

### **How this bill would address the problem:**

The ability to convert a final decision of the Commission into a judgment to collect penalties in a single hearing, without the requirement of filing a civil case, would cut staff time spent in pursuing collections cases and may result in faster collection of outstanding penalties without sacrificing any required procedural due process owed to the Respondent.

### **Background information:**

This bill is modeled after the procedure available to the Department of Fair Employment and Housing. The proposed procedure is a moderate approach, as other state agencies enjoy even more expedited procedures to obtain judgments to collect unpaid penalties. For example, several state agencies are issued an immediate judgment simply by presenting a certified copy of the final administrative order or decision to the clerk of the appropriate court (examples of these procedures are attached).

The current law regarding the collection of penalties, under section 91013.5, was added by the Legislature (Chapter 670, Statutes of 1984). Thus, adding a more efficient procedure to collect monetary penalties would not displace any specific intent by the people that penalties be collected in a particular manner, and would further the purposes of the Act by facilitating swift payment of penalties imposed for violations of the Act.

### **Fiscal Impact:**

With respect to the courts, the Commission would be filing fewer civil cases. With respect to the Commission, more collections cases could be processed in less time using fewer resources.

### **Language:**

Section 91013.7 would be added to the Government Code, to read:

“In addition to the remedies available in Section 91013.5, if the time for judicial review of a final commission order or decision has lapsed, or if all means of judicial review have been exhausted, the commission may, in its discretion, apply to the superior court in the county where the monetary penalties, fees, or civil penalties were imposed by the commission, for the enforcement of the order or decision or order as modified in accordance with a decision on judicial review. If,

after a hearing, the court determines that an order or decision has been issued by the commission and that either the time limits for judicial review have lapsed, or the order or decision was upheld in whole or in part on judicial review, the court shall issue a judgment and order enforcing the order or decision or order as modified in accordance with a decision on judicial review. The court shall not review the merits of the order or decision. The court's judgment shall be nonappealable and shall have the same force and effect as, and shall be subject to all the provisions of law relating to, a judgment in a civil action.”